



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBb1342/1
CMH&RAC:cjs:md 2
SFys RMR

Now

ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 339, line 7: after that line insert:

3 "SECTION 634r. 20.425 (1) (i) of the statutes, as affected by 2011 Wisconsin Act
4 10, is repealed and recreated to read:

5 20.425 (1) (i) *Fees, collective bargaining training, publications, and appeals.*

6 The amounts in the schedule for the performance of fact-finding, mediation,
7 certification, and arbitration functions, for the provision of copies of transcripts, for
8 the cost of operating training programs under ss. 111.09 (3), 111.71 (5m), and 111.94
9 (3), for the preparation of publications, transcripts, reports, and other copied
10 material, and for costs related to conducting appeals under s. 230.45. All moneys
11 received under ss. 111.09 (1) and (2), 111.70 (4) (d) 3. b., 111.71 (1) and (2), 111.83 (3)
12 (b), 111.94 (1) and (2), and 230.45 (3), all moneys received from arbitrators and

1 arbitration panel members, and individuals who are interested in serving in such
2 positions, and from individuals and organizations who participate in other collective
3 bargaining training programs conducted by the commission, and all moneys received
4 from the sale of publications, transcripts, reports, and other copied material shall be
5 credited to this appropriation account.”.

6 **2.** Page 483, line 13: after that line insert:

7 **“SECTION 1145rh.** 40.05 (4) (ag) of the statutes, as affected by 2011 Wisconsin
8 Act 10, is repealed and recreated to read:

9 40.05 (4) (ag) Except as otherwise provided in a collective bargaining
10 agreement under subch. V of ch. 111, the employer shall pay for its currently
11 employed insured employees:

12 1. For insured part-time employees other than employees specified in s. 40.02
13 (25) (b) 2., including those in project positions as defined in s. 230.27 (1), who are
14 appointed to work less than 1,044 hours per year, an amount determined annually
15 by the director of the office of state employment relations under par. (ah).

16 2. For eligible employees not specified in subd. 1. and s. 40.02 (25) (b) 2., an
17 amount not more than 88 percent of the average premium cost of plans offered in the
18 tier with the lowest employee premium cost under s. 40.51 (6), as determined
19 annually by the director of the office of state employment relations under par. (ah).

20 **SECTION 1145rm.** 40.05 (4) (ah) of the statutes is created to read:

21 40.05 (4) (ah) Annually, the director of the office of state employment relations
22 shall establish the amount that employees are required to pay for health insurance
23 premiums in accordance with the maximum employer payments under par. (ag).

24 **SECTION 1145rs.** 40.05 (4) (ar) of the statutes is repealed.”.

1 **3.** Page 489, line 19: delete the material beginning with that line and ending
2 with page 491, line 2, and substitute:

3 **"SECTION 1156ym.** 40.51 (7) of the statutes, as affected by 2011 Wisconsin Act
4 10, is repealed and recreated to read:

5 40.51 (7) (a) Any employer, other than the state, may offer to all of its employees
6 a health care coverage plan through a program offered by the group insurance board.
7 Notwithstanding sub. (2) and ss. 40.05 (4) and 40.52 (1), the department may by rule
8 establish different eligibility standards or contribution requirements for such
9 employees and employers and may by rule limit the categories of employers, other
10 than the state, which may be included as participating employers under this
11 subchapter. Beginning on January 1, 2012, except as otherwise provided in a
12 collective bargaining agreement under subch. IV of ch. 111 and except as provided
13 in par. (b), an employer may not offer a health care coverage plan to its employees
14 under this subsection if the employer pays more than 88 percent of the average
15 premium cost of plans offered in any tier with the lowest employee premium cost
16 under this subsection.

17 (b) 1. A municipal employer shall pay, on behalf of a nonrepresented law
18 enforcement or fire fighting managerial employee, who was initially employed by the
19 municipal employer before the effective date of this subdivision [LRB inserts
20 date], the same percentage under par. (a) that is paid by the municipal employer for
21 represented law enforcement or fire fighting personnel who were initially employed
22 by the municipal employer before the effective date of this subdivision [LRB
23 inserts date].

1 2. A municipal employer shall pay, on behalf of a represented law enforcement
2 or fire fighting employee, who was initially employed by the municipal employer
3 before the effective date of this subdivision [LRB inserts date], and who on or after
4 the effective date of this subdivision [LRB inserts date], became employed in a
5 nonrepresented law enforcement or fire fighting managerial position with the same
6 municipal employer, or a successor municipal employer in the event of a combined
7 department that is created on or after the effective date of this subdivision [LRB
8 inserts date], the same percentage under par. (a) that is paid by the municipal
9 employer for represented law enforcement or fire fighting personnel who were
10 initially employed by the municipal employer before the effective date of this
11 subdivision [LRB inserts date].”.

12 **4.** Page 658, line 17: after that line insert:

13 “**SECTION 1721g.** 66.0506 of the statutes, as created by 2011 Wisconsin Act 10,
14 is repealed and recreated to read:

15 **66.0506 Referendum; increase in employee wages.** (1) In this section,
16 “local governmental unit” means any city, village, town, county, metropolitan
17 sewerage district, long-term care district, transit authority under s. 59.58 (7) or
18 66.1039, local cultural arts district under subch. V of ch. 229, or any other political
19 subdivision of the state, or instrumentality of one or more political subdivisions of
20 the state.

21 (2) If any local governmental unit wishes to increase the total base wages of
22 its general municipal employees, as defined in s. 111.70 (1) (fm), who are part of a
23 collective bargaining unit under subch. IV of ch. 111, in an amount that exceeds the
24 limit under s. 111.70 (4) (mb) 2., the governing body of the local governmental unit

1 shall adopt a resolution to that effect. The resolution shall specify the amount by
2 which the proposed total base wages increase will exceed the limit under s. 111.70
3 (4) (mb) 2. The resolution may not take effect unless it is approved in a referendum
4 called for that purpose. The referendum shall occur in November for collective
5 bargaining agreements that begin the following January 1. The results of a
6 referendum apply to the total base wages only in the next collective bargaining
7 agreement.

8 (3) The referendum question shall be substantially as follows: "Shall the
9 [general municipal employees] in the [local governmental unit] receive a total
10 increase in wages from \$....[current total base wages] to \$....[proposed total base
11 wages], which is a percentage wage increase that is [x] percent higher than the
12 percent of the consumer price index increase, for a total percentage increase in wages
13 of [x]?"

14 **5.** Page 973, line 21: delete the material beginning with that line and ending
15 on page 975, line 8, and substitute:

16 **"SECTION 2405p.** 111.70 (1) (a) of the statutes, as affected by 2011 Wisconsin
17 Act 10, is repealed and recreated to read:

18 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
19 obligation of a municipal employer, through its officers and agents, and the
20 representative of its municipal employees in a collective bargaining unit, to meet and
21 confer at reasonable times, in good faith, with the intention of reaching an
22 agreement, or to resolve questions arising under such an agreement, with respect to
23 wages, hours, and conditions of employment for public safety employees or transit
24 employees and with respect to wages for general municipal employees, and with

1 respect to a requirement of the municipal employer for a municipal employee to
2 perform law enforcement and fire fighting services under s. 60.553, 61.66, or 62.13
3 (2e), except as provided in sub. (4) (mb) and (mc) and s. 40.81 (3) and except that a
4 municipal employer shall not meet and confer with respect to any proposal to
5 diminish or abridge the rights guaranteed to any public safety employees under ch.
6 164. Collective bargaining includes the reduction of any agreement reached to a
7 written and signed document.

8 **SECTION 2406cg.** 111.70 (1) (f) of the statutes, as affected by 2011 Wisconsin
9 Act 10, is repealed and recreated to read:

10 111.70 (1) (f) "Fair-share agreement" means an agreement between a
11 municipal employer and a labor organization that represents public safety
12 employees or transit employees under which all or any of the public safety employees
13 or transit employees in the collective bargaining unit are required to pay their
14 proportionate share of the cost of the collective bargaining process and contract
15 administration measured by the amount of dues uniformly required of all members.

16 **SECTION 2406cr.** 111.70 (1) (fm) of the statutes, as affected by 2011 Wisconsin
17 Act 10, is repealed and recreated to read:

18 111.70 (1) (fm) "General municipal employee" means a municipal employee
19 who is not a public safety employee or a transit employee.

20 **SECTION 2406fg.** 111.70 (1) (n) of the statutes, as affected by 2011 Wisconsin
21 Act 10, is repealed and recreated to read:

22 111.70 (1) (n) "Referendum" means a proceeding conducted by the commission
23 in which public safety employees or transit employees in a collective bargaining unit
24 may cast a secret ballot on the question of authorizing a labor organization and the
25 employer to continue a fair-share agreement.

1 **SECTION 2406gh.** 111.70 (1) (p) of the statutes is created to read:

2 111.70 (1) (p) "Transit employee" means a municipal employee who is
3 determined to be a transit employee under sub. (4) (bm).

4 **SECTION 2406hg.** 111.70 (2) of the statutes, as affected by 2011 Wisconsin Act
5 10, is repealed and recreated to read:

6 111.70 (2) RIGHTS OF MUNICIPAL EMPLOYEES. Municipal employees have the right
7 of self-organization, and the right to form, join, or assist labor organizations, to
8 bargain collectively through representatives of their own choosing, and to engage in
9 lawful, concerted activities for the purpose of collective bargaining or other mutual
10 aid or protection. Municipal employees have the right to refrain from any and all
11 such activities. A general municipal employee has the right to refrain from paying
12 dues while remaining a member of a collective bargaining unit. A public safety
13 employee or a transit employee, however, may be required to pay dues in the manner
14 provided in a fair-share agreement; a fair-share agreement covering a public safety
15 employee or a transit employee must contain a provision requiring the municipal
16 employer to deduct the amount of dues as certified by the labor organization from the
17 earnings of the employee affected by the fair-share agreement and to pay the amount
18 deducted to the labor organization. A fair-share agreement covering a public safety
19 employee or transit employee is subject to the right of the municipal employer or a
20 labor organization to petition the commission to conduct a referendum. Such
21 petition must be supported by proof that at least 30% of the employees in the
22 collective bargaining unit desire that the fair-share agreement be terminated. Upon
23 so finding, the commission shall conduct a referendum. If the continuation of the
24 agreement is not supported by at least the majority of the eligible employees, it shall
25 terminate. The commission shall declare any fair-share agreement suspended upon

1 such conditions and for such time as the commission decides whenever it finds that
2 the labor organization involved has refused on the basis of race, color, sexual
3 orientation, creed, or sex to receive as a member any public safety employee or transit
4 employee of the municipal employer in the bargaining unit involved, and such
5 agreement is subject to this duty of the commission. Any of the parties to such
6 agreement or any public safety employee or transit employee covered by the
7 agreement may come before the commission, as provided in s. 111.07, and ask the
8 performance of this duty.

9 **SECTION 2406hr.** 111.70 (3) (a) 3. of the statutes, as affected by 2011 Wisconsin
10 Act 10, is repealed and recreated to read:

11 111.70 (3) (a) 3. To encourage or discourage a membership in any labor
12 organization by discrimination in regard to hiring, tenure, or other terms or
13 conditions of employment; but the prohibition shall not apply to a fair-share
14 agreement that covers public safety employees or transit employees.

15 **SECTION 2406ir.** 111.70 (3) (a) 5. of the statutes, as affected by 2011 Wisconsin
16 Act 10, is repealed and recreated to read:

17 111.70 (3) (a) 5. To violate any collective bargaining agreement previously
18 agreed upon by the parties with respect to wages, hours and conditions of
19 employment affecting public safety employees or transit employees, including an
20 agreement to arbitrate questions arising as to the meaning or application of the
21 terms of a collective bargaining agreement or to accept the terms of such arbitration
22 award, where previously the parties have agreed to accept such award as final and
23 binding upon them or to violate any collective bargaining agreement affecting
24 general municipal employees, that was previously agreed upon by the parties with
25 respect to wages.

1 **SECTION 2406pg.** 111.70 (3) (a) 6. of the statutes, as affected by 2011 Wisconsin
2 Act 10, is repealed and recreated to read:

3 111.70 (3) (a) 6. To deduct labor organization dues from the earnings of a public
4 safety employee or a transit employee, unless the municipal employer has been
5 presented with an individual order therefor, signed by the employee personally, and
6 terminable by at least the end of any year of its life or earlier by the public safety
7 employee or transit employee giving at least 30 days' written notice of such
8 termination to the municipal employer and to the representative organization,
9 except when a fair-share agreement is in effect.

10 **SECTION 2406prm.** 111.70 (3) (a) 7m. of the statutes is created to read:

11 111.70 (3) (a) 7m. To refuse or otherwise fail to implement an arbitration
12 decision lawfully made under sub. (4) (cg).

13 **SECTION 2406rg.** 111.70 (3) (a) 9. of the statutes, as affected by 2011 Wisconsin
14 Act 10, is repealed and recreated to read:

15 111.70 (3) (a) 9. If the collective bargaining unit contains a public safety
16 employee or transit employee, after a collective bargaining agreement expires and
17 before another collective bargaining agreement takes effect, to fail to follow any
18 fair-share agreement in the expired collective bargaining agreement.

19 **SECTION 2406rrm.** 111.70 (3) (b) 6m. of the statutes is created to read:

20 111.70 (3) (b) 6m. To refuse or otherwise fail to implement an arbitration
21 decision lawfully made under sub. (4) (cg).”.

22 **6.** Page 975, line 9: before that line insert:

23 **“SECTION 2407bt.** 111.70 (4) (bm) of the statutes is created to read:

1 111.70 (4) (bm) *Transit employee determination.* The commission shall
2 determine that any municipal employee is a transit employee if the commission
3 determines that the municipal employer who employs the municipal employee would
4 lose federal funding under 49 USC 5333 (b) if the municipal employee is not a transit
5 employee.

6 **SECTION 2407dg.** 111.70 (4) (c) 2. of the statutes, as affected by 2011 Wisconsin
7 Act 10, is repealed and recreated to read:

8 111.70 (4) (c) 2. 'Arbitration.' Parties to a dispute pertaining to the meaning
9 or application of the terms of a written collective bargaining agreement involving a
10 collective bargaining unit containing a public safety employee may agree in writing
11 to have the commission or any other appropriate agency serve as arbitrator or may
12 designate any other competent, impartial and disinterested person to so serve.

13 **SECTION 2407ep.** 111.70 (4) (cg) of the statutes is created to read:

14 111.70 (4) (cg) *Methods for peaceful settlement of disputes; transit employees.*

15 1. 'Notice of commencement of contract negotiations.' To advise the commission of
16 the commencement of contract negotiations involving a collective bargaining unit
17 containing transit employees, whenever either party requests the other to reopen
18 negotiations under a binding collective bargaining agreement, or the parties
19 otherwise commence negotiations if no collective bargaining agreement exists, the
20 party requesting negotiations shall immediately notify the commission in writing.
21 Upon failure of the requesting party to provide notice, the other party may provide
22 notice to the commission. The notice shall specify the expiration date of the existing
23 collective bargaining agreement, if any, and shall provide any additional information
24 the commission may require on a form provided by the commission.

1 2. 'Presentation of initial proposals; open meetings.' The meetings between
2 parties to a collective bargaining agreement or proposed collective bargaining
3 agreement under this subchapter that involve a collective bargaining unit
4 containing a transit employee and that are held to present initial bargaining
5 proposals, along with supporting rationale, are open to the public. Each party shall
6 submit its initial bargaining proposals to the other party in writing. Failure to
7 comply with this subdivision does not invalidate a collective bargaining agreement
8 under this subchapter.

9 3. 'Mediation.' The commission or its designee shall function as mediator in
10 labor disputes involving transit employees upon request of one or both of the parties,
11 or upon initiation of the commission. The function of the mediator is to encourage
12 voluntary settlement by the parties. No mediator has the power of compulsion.

13 4. 'Grievance arbitration.' Parties to a dispute pertaining to the meaning or
14 application of the terms of a written collective bargaining agreement involving a
15 collective bargaining unit containing a transit employee may agree in writing to have
16 the commission or any other appropriate agency serve as arbitrator or may designate
17 any other competent, impartial, and disinterested person to serve as an arbitrator.

18 5. 'Voluntary impasse resolution procedures.' In addition to the other impasse
19 resolution procedures provided in this paragraph, a municipal employer that
20 employs a transit employee and labor organization may at any time, as a permissive
21 subject of bargaining, agree in writing to a dispute settlement procedure, including
22 binding interest arbitration, which is acceptable to the parties for resolving an
23 impasse over terms of any collective bargaining agreement under this subchapter.
24 The parties shall file a copy of the agreement with the commission. If the parties

1 agree to any form of binding interest arbitration, the arbitrator shall give weight to
2 the factors enumerated under subds. 7. and 7g.

3 6. 'Interest arbitration.' a. If in any collective bargaining unit containing
4 transit employees a dispute has not been settled after a reasonable period of
5 negotiation and after mediation by the commission under subd. 3. and other
6 settlement procedures, if any, established by the parties have been exhausted, and
7 the parties are deadlocked with respect to any dispute between them over wages,
8 hours, or conditions of employment to be included in a new collective bargaining
9 agreement, either party, or the parties jointly, may petition the commission, in
10 writing, to initiate compulsory, final, and binding arbitration, as provided in this
11 paragraph. At the time the petition is filed, the petitioning party shall submit in
12 writing to the other party and the commission its preliminary final offer containing
13 its latest proposals on all issues in dispute. Within 14 calendar days after the date
14 of that submission, the other party shall submit in writing its preliminary final offer
15 on all disputed issues to the petitioning party and the commission. If a petition is
16 filed jointly, both parties shall exchange their preliminary final offers in writing and
17 submit copies to the commission when the petition is filed.

18 am. Upon receipt of a petition under subd. 6. a. to initiate arbitration, the
19 commission shall determine, with or without a formal hearing, whether arbitration
20 should be commenced. If in determining whether an impasse exists the commission
21 finds that the procedures under this paragraph have not been complied with and
22 compliance would tend to result in a settlement, it may order compliance before
23 ordering arbitration. The validity of any arbitration award or collective bargaining
24 agreement is not affected by failure to comply with the procedures. Prior to the close
25 of the investigation each party shall submit in writing to the commission its single

1 final offer containing its final proposals on all issues in dispute that are subject to
2 interest arbitration under this subdivision. If a party fails to submit a single,
3 ultimate final offer, the commission shall use the last written position of the party.
4 Such final offers may include only mandatory subjects of bargaining, except that a
5 permissive subject of bargaining may be included by a party if the other party does
6 not object and is then treated as a mandatory subject. At that time, the parties shall
7 submit to the commission a stipulation, in writing, with respect to all matters that
8 they agree to include in the new or amended collective bargaining agreement. The
9 commission, after determining that arbitration should be commenced, shall issue an
10 order requiring arbitration and immediately submit to the parties a list of 7
11 arbitrators. The parties shall alternately strike names from the list until one name
12 is left that person shall be appointed arbitrator. The petitioning party shall notify
13 the commission in writing of the identity of the arbitrator. The commission shall then
14 formally appoint the arbitrator and submit to him or her the final offers of the
15 parties. The final offers are public documents and the commission shall make them
16 available. In lieu of a single arbitrator and upon request of both parties, the
17 commission shall appoint a tripartite arbitration panel consisting of one member
18 selected by each of the parties and a neutral person designated by the commission
19 who shall serve as a chairperson. An arbitration panel has the same powers and
20 duties provided in this section as any other appointed arbitrator, and all arbitration
21 decisions by a panel shall be determined by majority vote. In lieu of selection of the
22 arbitrator by the parties and upon request of both parties, the commission shall
23 establish a procedure for randomly selecting names of arbitrators. Under the
24 procedure, the commission shall submit a list of 7 arbitrators to the parties. Each
25 party shall strike one name from the list. From the remaining 5 names, the

1 commission shall randomly appoint an arbitrator. Unless both parties to an
2 arbitration proceeding otherwise agree in writing, every individual whose name is
3 submitted by the commission for appointment as an arbitrator must be a resident of
4 this state at the time of submission and every individual who is designated as an
5 arbitration panel chairperson must be a resident of this state at the time of
6 designation.

7 b. The arbitrator shall, within 10 days of his or her appointment under subd.
8 6. am., establish a date and place for the arbitration hearing. Upon petition of at least
9 5 citizens of the jurisdiction served by the municipal employer, filed within 10 days
10 after the date on which the arbitrator is appointed, the arbitrator shall hold a public
11 hearing in the jurisdiction to provide both parties the opportunity to present
12 supporting arguments for their positions and to provide to members of the public the
13 opportunity to offer their comments. The final offers of the parties, as transmitted
14 by the commission to the arbitrator, are the basis for continued negotiations, if any,
15 between the parties with respect to the issues in dispute. At any time prior to the
16 arbitration hearing, either party, with the consent of the other party, may modify its
17 final offer in writing.

18 c. Before issuing his or her arbitration decision, the arbitrator shall, on his or
19 her own motion or at the request of either party, conduct a meeting open to the public
20 to provide the opportunity to both parties to present supporting arguments for their
21 complete offer on all matters to be covered by the proposed agreement. The
22 arbitrator shall adopt without further modification the final offer of one of the parties
23 on all disputed issues submitted under subd. 6. am., except those items that the
24 commission determines not to be mandatory subjects of bargaining and those items
25 that have not been treated as mandatory subjects by the parties, and including any

1 prior modifications of the offer mutually agreed upon by the parties under subd. 6.

2 b. The decision shall be final and binding on both parties and shall be incorporated
3 into a written collective bargaining agreement. The arbitrator shall serve a copy of
4 his or her decision on both parties and the commission.

5 e. Arbitration proceedings may not be interrupted or terminated by reason of
6 any prohibited practice complaint filed by either party at any time.

7 f. The parties shall divide the costs of arbitration equally. The arbitrator shall
8 submit a statement of his or her costs to both parties and to the commission.

9 g. If a question arises as to whether any proposal made in negotiations by either
10 party is a mandatory, permissive, or prohibited subject of bargaining, the
11 commission shall determine the issue under par. (b). If either party to the dispute
12 petitions the commission for a declaratory ruling under par. (b), the proceedings
13 under subd. 6. c. shall be delayed until the commission renders a decision in the
14 matter, but not during any appeal of the commission order. The arbitrator's award
15 shall be made in accordance with the commission's ruling, subject to automatic
16 amendment by any subsequent court reversal.

17 7. 'Factor given greatest weight.' In making any decision under the arbitration
18 procedures under this paragraph, the arbitrator or arbitration panel shall consider
19 and shall give the greatest weight to the economic conditions in the jurisdiction of
20 the municipal employer. The arbitrator or arbitration panel shall give an accounting
21 of the consideration of this factor in the arbitrator's or panel's decision.

22 7g. 'Factor given greater weight.' In making any decision under the arbitration
23 procedures under this paragraph, the arbitrator or arbitration panel shall consider
24 and shall give greater weight to any state law or directive lawfully issued by a state
25 legislative or administrative officer, body, or agency that places limitations on

1 expenditures that may be made or revenues that may be collected by a municipal
2 employer than to any of the factors specified in subd. 7r.

3 7r. 'Other factors considered.' In making any decision under the arbitration
4 procedures under by this paragraph, the arbitrator or arbitration panel shall give
5 weight to the following factors:

6 a. The lawful authority of the municipal employer.

7 b. Stipulations of the parties.

8 c. The interests and welfare of the public and the financial ability of the unit
9 of government to meet the costs of any proposed settlement.

10 d. Comparison of wages, hours and conditions of employment of the transit
11 employees involved in the arbitration proceedings with the wages, hours, and
12 conditions of employment of other employees performing similar services.

13 e. Comparison of the wages, hours and conditions of employment of the transit
14 employees involved in the arbitration proceedings with the wages, hours, and
15 conditions of employment of other employees generally in public employment in the
16 same community and in comparable communities.

17 f. Comparison of the wages, hours and conditions of employment of the transit
18 employees involved in the arbitration proceedings with the wages, hours, and
19 conditions of employment of other employees in private employment in the same
20 community and in comparable communities.

21 g. The average consumer prices for goods and services, commonly known as the
22 cost of living.

23 h. The overall compensation presently received by the transit employees,
24 including direct wage compensation, vacation, holidays, and excused time,

1 insurance and pensions, medical and hospitalization benefits, the continuity and
2 stability of employment, and all other benefits received.

3 i. Changes in any of the foregoing circumstances during the pendency of the
4 arbitration proceedings.

5 j. Such other factors, not confined to the foregoing, which are normally or
6 traditionally taken into consideration in the determination of wages, hours and
7 conditions of employment through voluntary collective bargaining, mediation,
8 fact-finding, arbitration or otherwise between the parties, in the public service or in
9 private employment.

10 8. 'Rule making.' The commission shall adopt rules for the conduct of all
11 arbitration proceedings under subd. 6., including, but not limited to, rules for:

12 a. The appointment of tripartite arbitration panels when requested by the
13 parties.

14 b. The expeditious rendering of arbitration decisions, such as waivers of briefs
15 and transcripts.

16 c. The removal of individuals who have repeatedly failed to issue timely
17 decisions from the commission's list of qualified arbitrators.

18 d. Proceedings for the enforcement of arbitration decisions.

19 8m. 'Term of agreement; reopening of negotiations.' Except for the initial
20 collective bargaining agreement between the parties and except as the parties
21 otherwise agree, every collective bargaining agreement covering transit employees
22 shall be for a term of 2 years, but in no case may a collective bargaining agreement
23 for any collective bargaining unit consisting of transit employees subject to this
24 paragraph be for a term exceeding 3 years. No arbitration award involving transit
25 employees may contain a provision for reopening of negotiations during the term of

1 a collective bargaining agreement, unless both parties agree to such a provision. The
2 requirement for agreement by both parties does not apply to a provision for
3 reopening of negotiations with respect to any portion of an agreement that is
4 declared invalid by a court or administrative agency or rendered invalid by the
5 enactment of a law or promulgation of a federal regulation.

6 9. 'Application.' Chapter 788 does not apply to arbitration proceedings under
7 this paragraph.

8 **SECTION 2408b.** 111.70 (4) (d) 2. a. of the statutes, as affected by 2011 Wisconsin
9 Act 10, is repealed and recreated to read:

10 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
11 bargaining unit for the purpose of collective bargaining and shall whenever possible
12 avoid fragmentation by maintaining as few collective bargaining units as practicable
13 in keeping with the size of the total municipal workforce. The commission may
14 decide whether, in a particular case, the municipal employees in the same or several
15 departments, divisions, institutions, crafts, professions, or other occupational
16 groupings constitute a collective bargaining unit. Before making its determination,
17 the commission may provide an opportunity for the municipal employees concerned
18 to determine, by secret ballot, whether they desire to be established as a separate
19 collective bargaining unit. The commission may not decide, however, that any group
20 of municipal employees constitutes an appropriate collective bargaining unit if the
21 group includes both professional employees and nonprofessional employees, unless
22 a majority of the professional employees vote for inclusion in the unit. The
23 commission may not decide that any group of municipal employees constitutes an
24 appropriate collective bargaining unit if the group includes both school district
25 employees and general municipal employees who are not school district employees.

1 The commission may not decide that any group of municipal employees constitutes
2 an appropriate collective bargaining unit if the group includes both public safety
3 employees and general municipal employees, if the group include includes both
4 transit employees and general municipal employees, or if the group includes both
5 transit employees and public safety employees. The commission may not decide that
6 any group of municipal employees constitutes an appropriate collective bargaining
7 unit if the group includes both craft employees and noncraft employees unless a
8 majority of the craft employees vote for inclusion in the unit. The commission shall
9 place the professional employees who are assigned to perform any services at a
10 charter school, as defined in s. 115.001 (1), in a separate collective bargaining unit
11 from a unit that includes any other professional employees whenever at least 30%
12 of those professional employees request an election to be held to determine that issue
13 and a majority of the professional employees at the charter school who cast votes in
14 the election decide to be represented in a separate collective bargaining unit.

15 **SECTION 2408ch.** 111.70 (4) (d) 3. b. of the statutes, as created by 2011
16 Wisconsin Act 10, is repealed and recreated to read:

17 111.70 (4) (d) 3. b. Annually, the commission shall conduct an election to certify
18 the representative of the collective bargaining unit that contains a general municipal
19 employee. The election shall occur no later than December 1 for a collective
20 bargaining unit containing school district employees and no later than May 1 for a
21 collective bargaining unit containing general municipal employees who are not
22 school district employees. The commission shall certify any representative that
23 receives at least 51 percent of the votes of all of the general municipal employees in
24 the collective bargaining unit. If no representative receives at least 51 percent of the
25 votes of all of the general municipal employees in the collective bargaining unit, at

1 the expiration of the collective bargaining agreement, the commission shall decertify
2 the current representative and the general municipal employees shall be
3 nonrepresented. Notwithstanding sub. (2), if a representative is decertified under
4 this subd. 3. b., the affected general municipal employees may not be included in a
5 substantially similar collective bargaining unit for 12 months from the date of
6 decertification. The commission shall assess and collect a certification fee for each
7 election conducted under this subd. 3. b. Fees collected under this subd. 3. b. shall
8 be credited to the appropriation account under s. 20.425 (1) (i)."

9 **7.** Page 975, line 18: after that line insert:

10 "SECTION 2409bg. 111.70 (4) (mb) 2. b. of the statutes, as created by 2011
11 Wisconsin Act 10, is repealed and recreated to read:

12 111.70 (4) (mb) 2. b. If there is a decrease or no change in the consumer price
13 index change, provides for any change in total base wages for authorized positions
14 in the proposed collective bargaining agreement from the total base wages for
15 authorized positions 180 days before the expiration of the previous collective
16 bargaining agreement.

17 SECTION 2409br. 111.70 (4) (mbb) of the statutes is created to read:

18 111.70 (4) (mbb) For purposes of determining compliance with par. (mb), the
19 commission shall provide, upon request, to a municipal employer or to any
20 representative of a collective bargaining unit containing a general municipal
21 employee, the consumer price index change during any 12-month period. The
22 commission may get the information from the department of revenue."

23 **8.** Page 976, line 11: after that line insert:

1 **“SECTION 2409db.** 111.70 (4) (p) of the statutes, as affected by 2011 Wisconsin
2 Act 10, is repealed and recreated to read:

3 111.70 (4) (p) *Permissive subjects of collective bargaining; public safety and*
4 *transit employees.* A municipal employer is not required to bargain with public safety
5 employees or transit employees on subjects reserved to management and direction
6 of the governmental unit except insofar as the manner of exercise of such functions
7 affects the wages, hours, and conditions of employment of the public safety
8 employees or of the transit employees in a collective bargaining unit.

9 **SECTION 2409fg.** 111.70 (7m) (c) 1. a. of the statutes, as affected by 2011
10 Wisconsin Act 10, is repealed and recreated to read:

11 111.70 (7m) (c) 1. a. Any labor organization that represents public safety
12 employees or transit employees which violates sub. (4) (L) may not collect any dues
13 under a collective bargaining agreement or under a fair-share agreement from any
14 employee covered by either agreement for a period of one year. At the end of the
15 period of suspension, any such agreement shall be reinstated unless the labor
16 organization is no longer authorized to represent the public safety employees or
17 transit employees covered by the collective bargaining agreement or fair-share
18 agreement or the agreement is no longer in effect.

19 **SECTION 2409gr.** 111.70 (8) (a) of the statutes, as affected by 2011 Wisconsin
20 Act 10, is repealed and recreated to read:

21 111.70 (8) (a) This section, except sub. (4) (cg) and (cm), applies to law
22 enforcement supervisors employed by a 1st class city. This section, except sub. (4)
23 (cm) and (jm), applies to law enforcement supervisors employed by a county having
24 a population of 500,000 or more. For purposes of such application, the terms
25 “municipal employee” and “public safety employee” include such a supervisor.

1 **SECTION 2409hg.** 111.71 (2) of the statutes, as affected by 2011 Wisconsin Act
2 10, is repealed and recreated to read:

3 111.71 (2) The commission shall assess and collect a filing fee for filing a
4 complaint alleging that a prohibited practice has been committed under s. 111.70 (3).
5 The commission shall assess and collect a filing fee for filing a request that the
6 commission act as an arbitrator to resolve a dispute involving the interpretation or
7 application of a collective bargaining agreement under s. 111.70 (4) (c) 2., (cg) 4., or
8 (cm) 4. The commission shall assess and collect a filing fee for filing a request that
9 the commission initiate fact-finding under s. 111.70 (4) (c) 3. The commission shall
10 assess and collect a filing fee for filing a request that the commission act as a
11 mediator under s. 111.70 (4) (c) 1., (cg) 3., or (cm) 3. The commission shall assess and
12 collect a filing fee for filing a request that the commission initiate compulsory, final
13 and binding arbitration under s. 111.70 (4) (cg) 6. or (jm) or 111.77 (3). For the
14 performance of commission actions under ss. 111.70 (4) (c) 1., 2. and 3., (cg) 3., 4., and
15 6., (cm) 3. and 4., and (jm) and 111.77 (3), the commission shall require that the
16 parties to the dispute equally share in the payment of the fee and, for the
17 performance of commission actions involving a complaint alleging that a prohibited
18 practice has been committed under s. 111.70 (3), the commission shall require that
19 the party filing the complaint pay the entire fee. If any party has paid a filing fee
20 requesting the commission to act as a mediator for a labor dispute and the parties
21 do not enter into a voluntary settlement of the dispute, the commission may not
22 subsequently assess or collect a filing fee to initiate fact-finding or arbitration to
23 resolve the same labor dispute. If any request for the performance of commission
24 actions concerns issues arising as a result of more than one unrelated event or
25 occurrence, each such separate event or occurrence shall be treated as a separate

1 request. The commission shall promulgate rules establishing a schedule of filing fees
2 to be paid under this subsection. Fees required to be paid under this subsection shall
3 be paid at the time of filing the complaint or the request for fact-finding, mediation
4 or arbitration. A complaint or request for fact-finding, mediation or arbitration is
5 not filed until the date such fee or fees are paid, except that the failure of the
6 respondent party to pay the filing fee for having the commission initiate compulsory,
7 final and binding arbitration under s. 111.70 (4) (cg) 6. or (jm) or 111.77 (3) may not
8 prohibit the commission from initiating such arbitration. The commission may
9 initiate collection proceedings against the respondent party for the payment of the
10 filing fee. Fees collected under this subsection shall be credited to the appropriation
11 account under s. 20.425 (1) (i).

12 **SECTION 2409hrm.** 111.71 (4m) of the statutes is created to read:

13 111.71 (4m) The commission shall collect on a systematic basis information on
14 the operation of the arbitration law under s. 111.70 (4) (cg). The commission shall
15 report on the operation of the law to the legislature on an annual basis. The report
16 shall be submitted to the chief clerk of each house of the legislature for distribution
17 to the legislature under s. 13.172 (2).

18 **SECTION 2409igm.** 111.71 (5m) of the statutes is created to read:

19 111.71 (5m) The commission shall, on a regular basis, provide training
20 programs to prepare individuals for service as arbitrators or arbitration panel
21 members under s. 111.70 (4) (cg). The commission shall engage in appropriate
22 promotional and recruitment efforts to encourage participation in the training
23 programs by individuals throughout the state, including at least 10 residents of each
24 congressional district. The commission may also provide training programs to
25 individuals and organizations on other aspects of collective bargaining, including on

1 areas of management and labor cooperation directly or indirectly affecting collective
2 bargaining. The commission may charge a reasonable fee for participation in the
3 programs.”.

4 **9.** Page 976, line 20: after that line insert:

5 “**SECTION 2409jn.** 111.77 (9) of the statutes is amended to read:

6 111.77 (9) Section 111.70 (4) (c) 3., (cg), and (cm) ~~shall~~ does not apply to
7 employments covered by this section.”.

8 **10.** Page 982, line 19: after that line insert:

9 “**SECTION 2410oe.** 111.83 (3) (b) of the statutes, as created by 2011 Wisconsin
10 Act 10, is repealed and recreated to read:

11 111.83 (3) (b) Annually, no later than December 1, the commission shall
12 conduct an election to certify the representative of a collective bargaining unit that
13 contains a general employee. There shall be included on the ballot the names of all
14 labor organizations having an interest in representing the general employees
15 participating in the election. The commission may exclude from the ballot one who,
16 at the time of the election, stands deprived of his or her rights under this subchapter
17 by reason of a prior adjudication of his or her having engaged in an unfair labor
18 practice. The commission shall certify any representative that receives at least 51
19 percent of the votes of all of the general employees in the collective bargaining unit.
20 If no representative receives at least 51 percent of the votes of all of the general
21 employees in the collective bargaining unit, at the expiration of the collective
22 bargaining agreement, the commission shall decertify the current representative
23 and the general employees shall be nonrepresented. Notwithstanding s. 111.82, if
24 a representative is decertified under this paragraph, the affected general employees

1 may not be included in a substantially similar collective bargaining unit for 12
2 months from the date of decertification. The commission's certification of the results
3 of any election is conclusive unless reviewed as provided by s. 111.07 (8). The
4 commission shall assess and collect a certification fee for each election conducted
5 under this paragraph. Fees collected under this paragraph shall be credited to the
6 appropriation account under s. 20.425 (1) (i).".

7 **11.** Page 985, line 15: after that line insert:

8 "SECTION 2425p. 111.91 (3) (b) 2. of the statutes, as created by 2011 Wisconsin
9 Act 10, is repealed and recreated to read:

10 111.91 (3) (b) 2. If there is a decrease or no change in the consumer price index
11 change, provides for any change in total base wages for authorized positions in the
12 proposed collective bargaining agreement from the total base wages for authorized
13 positions 180 days before the expiration of the previous collective bargaining
14 agreement.".

15 **12.** Page 1150, line 22: after that line insert:

16 "SECTION 2764bg. 230.12 (1) (h) of the statutes is created to read:

17 230.12 (1) (h) *Other pay, benefits, and working conditions.* The compensation
18 plan may include other provisions relating to pay, benefits, and working conditions
19 that shall supersede the provisions of the civil service and other applicable statutes
20 and rules promulgated by the director and the administrator.

21 **SECTION 2764br.** 230.12 (3) (a) of the statutes is amended to read:

22 230.12 (3) (a) *Submission to the joint committee on employment relations.* The
23 director shall submit to the joint committee on employment relations a proposal for
24 any required changes in the compensation plan ~~which may include across the board~~

1 ~~pay adjustments for positions in the classified service.~~ The proposal shall include the
2 amounts and methods for within range pay progression, for pay transactions, and for
3 performance awards. The proposal shall be based upon experience in recruiting for
4 the service, the principle of providing pay equity regardless of gender or race, data
5 collected as to rates of pay for comparable work in other public services and in
6 commercial and industrial establishments, recommendations of agencies and any
7 special studies carried on as to the need for any changes in the compensation plan
8 to cover each year of the biennium. The proposal shall also take proper account of
9 prevailing pay rates, costs and standards of living and the state's employment
10 policies.

11 **SECTION 2764bt.** 230.12 (3) (b) of the statutes is amended to read:

12 230.12 (3) (b) *Public hearing on the proposal; adoption of plan.* The director
13 shall submit the proposal for any required changes in the compensation plan to the
14 joint committee on employment relations. The committee shall hold a public hearing
15 on the proposal. The proposal, as may be modified by the joint committee on
16 employment relations together with the unchanged provisions of the current
17 compensation plan, shall, for the ensuing fiscal year or until a new or modified plan
18 is adopted under this subsection, constitute the state's compensation plan ~~for~~
19 ~~positions in the classified service.~~ Any modification of the director's proposed
20 changes in the compensation plan by the joint committee on employment relations
21 may be disapproved by the governor within 10 calendar days. A vote of 6 members
22 of the joint committee on employment relations is required to set aside any such
23 disapproval of the governor.”.

24 **13.** Page 1379, line 18: after that line insert:

1 **"SECTION 3508v.** 904.085 (2) (a) of the statutes is amended to read:

2 904.085 (2) (a) "Mediation" means mediation under s. 93.50 (3), conciliation
3 under s. 111.54, mediation under s. 111.11, 111.70 (4) (cg) or (cm) 3. or 111.87,
4 mediation under s. 115.797, negotiation under s. 289.33 (9), mediation under ch. 655
5 or s. 767.405, or any similar statutory, contractual or court-referred process
6 facilitating the voluntary resolution of disputes. "Mediation" does not include
7 binding arbitration or appraisal."

8 **14.** Page 1401, line 6: after that line insert:

9 **"SECTION 3570b.** 2011 Wisconsin Act 10, section 9115 (1) (a) (intro.) is amended
10 to read:

11 [2011 Wisconsin Act 10] Section 9115 (1) (a) (intro.) Notwithstanding section
12 40.05 (4) (ag) and (c) of the statutes, as affected by this act, beginning with health
13 insurance premiums paid in April 2011 any month that begins after the effective date
14 of the 2011-13 biennial budget act, as determined by the secretary of administration,
15 and ending with coverage for December 2011, all of the following shall apply:

16 **SECTION 3570d.** 2011 Wisconsin Act 10, section 9115 (2) is amended to read:

17 [2011 Wisconsin Act 10] Section 9115 (2) EMPLOYER AND EMPLOYEE REQUIRED
18 CONTRIBUTIONS FOR 2011. Notwithstanding the employer and employee required
19 contributions rates established for 2011 under section 40.05 (1) and (2), 2009 stats.,
20 beginning on the first day of the first pay period after March 13, 2011 the effective
21 date of the 2011-13 biennial budget act, as determined by the secretary of
22 administration, the employee required contributions under section 40.05 (1) (a) of
23 the statutes, as affected by this act, shall be in effect for the remainder of 2011, and
24 the employer required contributions under section 40.05 (2) of the statutes shall be

1 adjusted to reflect the increases in employee required contributions for the
2 remainder of 2011. If an employer is unable to modify payroll procedures in sufficient
3 time to collect the increased employee required contributions before the first day of
4 the first pay period after March 13, 2011, the employer shall recover all amounts that
5 employees owe before July 1, 2011.

6 ✓ **SECTION 3570f.** 2011 Wisconsin Act 10, section 9132 (1) (b) is amended to read:

7 [2011 Wisconsin Act 10] Section 9132 (1) (b) Each collective bargaining unit
8 under subchapter IV of chapter 111 of the statutes, as affected by this act, containing
9 general municipal employees who are subject to an extension of their collective
10 bargaining agreement shall have their collective bargaining agreement terminated
11 as soon as legally possible and shall vote to certify or decertify their representatives
12 as provided in section 111.70 (4) (d) 3. b. of the statutes, as created by this act.
13 Notwithstanding the date provided under section 111.70 (4) (d) 3. b. of the statutes,
14 as created by this act, the vote shall be held in April 2011 the 3rd month beginning
15 after the effective date of the 2011–13 biennial budget act.

16 **SECTION 3570h.** 2011 Wisconsin Act 10, section 9155 (1) (b) is amended to read:

17 [2011 Wisconsin Act 10] Section 9155 (1) (b) Each collective bargaining unit
18 under subchapter V of chapter 111 of the statutes, as affected by this act, containing
19 general employees shall vote to certify or decertify their representatives as provided
20 in section 111.83 (3) (b) of the statutes, as created by this act. Notwithstanding the
21 date provided under section 111.83 (3) (b) of the statutes, as created by this act, the
22 vote shall be held in April 2011 the 3rd month beginning after the effective date of
23 the 2011–13 biennial budget act.

24 **SECTION 3570j.** 2011 Wisconsin Act 10, section 9315 (3) (a) is amended to read:

[2011 Wisconsin Act 10] Section 9315 (3) (a) Except as provided in paragraph (b), for elected officials, as defined in section 40.02 (24) of the statutes, and for any public officer holding a term of office subject to article IV, section 26 (2) of the constitution, who are participating employees in the Wisconsin retirement system, the treatment of section 40.23 (2m) (e) 2. of the statutes first applies to creditable service that is performed on the first day of a term of office that begins after the effective date of this paragraph.”.

15. Page 1401, line 24: after that line insert:

“(1q) EVALUATION OF STAFFING NEEDS AT THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION. The department of administration shall evaluate the staffing requirements of the Wisconsin employment relations commission and shall submit the report of the evaluation to the joint committee on finance under section 13.10 of the statutes.”.

16. Page 1496, line 2: delete lines 2 to 19.

17. Page 1498, line 2: after that line insert:

“(3r) WAGE INCREASE FOR INITIAL COLLECTIVE BARGAINING AGREEMENT.

(a) In this subsection:

1. “Consumer price index change” has the meaning given in section 111.81 (3n) of the statutes.

2. “General employee” has the meaning given in section 111.81 (9g) of the statutes. *as affected by this act*

(b) Notwithstanding section 111.91 (3) (b) of the statutes, as affected by this act, in the first collective bargaining agreement that it negotiates after the effective date of this paragraph with each collective bargaining unit containing a general

1 employee, the state is prohibited from bargaining with respect to a proposal that does
2 any of the following:

3 1. If there is an increase in the consumer price index change, provides for total
4 base wages for authorized positions in the proposed collective bargaining agreement
5 that exceed the total base wages for authorized positions 180 days before July 1,
6 2011, by a greater percentage than the consumer price index change.

7 2. If there is a decrease or no change in the consumer price index change,
8 provides for any change in total base wages for authorized positions in the proposed
9 collective bargaining agreement from the total base wages for authorized positions
10 180 days before July 1, 2011.”.

11 **18.** Page 1514, line 5: after that line insert:

12 “(1q) COLLECTIVE BARGAINING; MUNICIPAL EMPLOYEES. The treatment of sections
13 66.0506, 111.70 (1) (a), (f), (fm), (n), and (p), (2), (3) (a) 3., 5., 6., 7m., and 9. and (b)
14 6m., (3m), (3p), (4) (bm), (c) 2., (cg), (d) 2. a. and 3. b., and (p), (mb) 2. b., and (mbb),
15 (7m) (c) 1. a., and (8) (a), 111.71 (2), (4m), and (5m), 111.77 (9), and 904.085 (2) (a) of
16 the statutes first applies to employees who are covered by a collective bargaining
17 agreement under subchapter IV of chapter 111 of the statutes that contains
18 provisions inconsistent with those sections on the day on which the agreement
19 expires or is terminated, extended, modified, or renewed, whichever occurs first.”.

20 (END)